

**ORDINANCE NO. 1773**

**AN ORDINANCE TO AMEND THE *CODE OF ORDINANCES*,  
ADOPTED JULY 24, 1989, AT CHAPTER 6, BEACHES, BOATS, AND  
WATERWAYS, ARTICLE I. IN GENERAL, TO ADD SECTIONS 6-14  
THROUGH 6-16 TO PROHIBIT LITTERING AND LITTER NUISANCE  
CONDITIONS ON ANY PORTION OF THE CITY BEACH PROJECT SOUTH  
OF THE CONSTRUCTION CONTROL LINE AND TO IMPOSE PENALTIES  
AND SANCTIONS FOR VIOLATIONS OF SUCH PROHIBITIONS AND THE  
FAILURE OF RESPONSIBLE PARTIES TO ABATE SUCH NUISANCE  
CONDITIONS**

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WHEREAS, the presence of litter on the Gulf front beaches of the City of Gulf Shores is a nuisance injurious to the health, safety, and welfare of the public, to the aesthetics of the beaches, to the environmental health of the Gulf of Mexico, and to the maintenance and condition of the Beach Project installed by the City pursuant to Ala. Code §§ 11-47-250 et. seq.; and

WHEREAS, the City Council has determined that the littering of private Gulf front properties within the boundaries of the Beach Project and of areas of the Beach Project seaward of such properties by persons occupying such properties has become a problem of serious and continuing public concern; and

WHEREAS, the City Council has determined that the primary responsibility for the prevention and abatement of such littering is properly that of the owners and rental agents of such properties; and

WHEREAS, the City Council has determined that appropriate penalties and sanctions should be put in place to promote the prevention and abatement of littering on the Gulf front beaches of the City; and

WHEREAS, the City Council pursuant to Ala. Code § 11-47-251 has the power and authority to make and enforce rules and regulations governing the use of and activities on the areas included within any beach project, which include the Gulf beachfront areas seaward of the Construction Control Line,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA, WHILE IN REGULAR SESSION ON FEBRUARY 9, 2015, as follows:

Section 1. That Article I of Chapter 6, Beaches, Boats, and Waterways of the *Code of Ordinances*, adopted July 24, 1989, be and it is hereby amended by the addition of Sections 6-14 through 6-16 reading in their entirety as follows:

**Sec. 6-14. Littering On Any Portion of Public Beach Project Area; Definitions.**

**(a) Definitions:**

As used in Section 6-14 through 6-16, the following terms shall have the following meanings:

*Litter* shall mean any rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris, or any foreign substance of whatever kind and description, and whether or not it is of value.

*Public Beach Project Area* shall mean the area within the corporate limits of the City lying seaward of the Construction Control Line as defined in Section 7-121 of the Code of Ordinances, excluding, however, any portion of such area lying directly beneath any habitable structure existing seaward of such Line

*Property* shall mean that portion of any privately owned real property lying within the Public Beach Project Area.

*Adjacent Public Beach Project Area* shall mean that portion of the Public Beach Project Area that is attingent to a Property and that lies between the easterly and westerly boundaries of such Property as extended to the mean high tide line of the Gulf of Mexico.

*Owner* shall mean the person or persons or entity or entities in whose name a Property is assessed for ad valorem taxation according to the online records of the Baldwin County Revenue Department. In addition, for purposes of Section 6-15, in the case of a condominium Property the term Owner shall include the condominium owner's association or such other person or entity as is charged under the condominium's organizational documents with the maintenance and upkeep of the common elements of the condominium.

*Rental Agent* shall mean any person or entity who represents the Owner for purposes of the rental or leasing of a Property for a fee, charge, commission, or other consideration. Any person or entity whose name is posted on a Property for rental purposes shall be presumed to be a Rental Agent for that Property.

*Local Emergency Contact* shall mean the contact or designee designated by a business licensed for vacation rental of a dwelling unit pursuant to Section 8-41 of the Code of Ordinances.

*Beach Enforcement Officer* shall mean any person not otherwise a law enforcement officer or peace officer within the meaning of state law who is employed or appointed by the City to enforce the provisions of Sections 6-14 through 6-16 under the supervision of the chief of police. By virtue of such employment or appointment, such officers shall not be deemed law enforcement officers or peace officers within the meaning of state law and shall not have authority as officers of the city to make arrests.

*Occupant* shall mean a person physically present on a Property as, or with the permission of, the Owner.

**(b) Littering On Any Portion of Public Beach Project Area.** It shall be an offense punishable as provided in Section 6-16 of the Code of Ordinances for any person to deposit any Litter on the Public Beach Project Area outside of City approved collection containers. Each item of Litter deposited shall constitute and be punishable as a separate offense.

#### **Sec. 6-15. Failure To Abate Litter Conditions**

(a) It shall be an offense punishable as provided in Section 6-16 of the Code of Ordinances for the Owner or Rental Agent of a Property, either or both, to allow any Litter to accumulate and remain on such Property or Adjacent Public Beach Project Area so as to constitute a public nuisance condition. Each day or portion of a day on which the public nuisance condition exists shall constitute and be punishable as a separate offense. It is no defense under this subsection (a) that the Owner or Rental Agent did not intend, or was unaware of, the public nuisance condition. It is a defense under this subsection (a) that the public nuisance condition was timely abated in response to an Occupant notification by a Beach Enforcement Officer as provided in subsection (b) below. It is a defense under this subsection (a) that the public nuisance condition was limited to the Adjacent Public Beach Project Area and was not created in whole or contributed to in part by any Occupant of the Property.

(b) Without limitation or exclusion of powers and methods of enforcement of this Section by other officers, any Beach Enforcement Officer of the City shall be authorized to enter any Property or Adjacent Public Beach Project Area within the Public Beach Project Area for the purpose of documenting and summarily abating nuisance litter conditions. Before taking summary abatement action, the Beach Enforcement Officer ((i) shall make an effort reasonable under the circumstances to notify any identified Occupant of the Property that a public nuisance condition is deemed to exist and shall allow any notified Occupant a period of time reasonable under the circumstances to effect the abatement of the nuisance litter conditions and (ii) shall attempt to contact any Local Emergency Contact for the Property identified in the records of the City Revenue Department to notify such Local Emergency Contact that a public nuisance condition is deemed to exist and what period of time to effect the abatement of the nuisance litter conditions has been established. Before undertaking summary abatement of the nuisance litter conditions, the Beach Enforcement Officer shall appropriately document such conditions with photographic or electronic imagery and shall thereafter initiate an appropriate enforcement action by citation and complaint filed with the municipal court against all individuals and entities in violation of this Section in connection with such public nuisance conditions.

#### **Sec. 6-16. Penalties For Violation of Section 6-14 or Section 6-15.**

(a) Any person violating Section 6-14 or 6-15 of the Code of Ordinances shall be guilty of an offense and, upon conviction, shall be punished for each offense by a fine of not less than \$100.00 and not more than \$500.00 and shall be ordered to pay restitution to the City in the amount of any unpaid costs of abatement due and payable under Section 6-16(b).



(b) Any person or persons violating Section 6-15 of the Code of Ordinances shall also pay all costs of abatement incurred by the City pursuant to Section 6-15(b) within ten (10) days of rendition and posting on the Property of the City's statement of such costs unless a notice of protest of such costs is filed with the City Clerk within such ten (10) day period. If a notice of protest is timely filed, the City Council shall consider and act upon such protest at its next regular Council meeting. The statement of costs as confirmed or modified by action of the City Council shall be due and payable in full within ten (10) days thereafter.

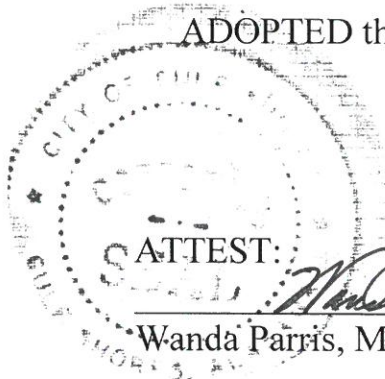
(c) The business license of any Owner or Rental Agent shall be suspended during any period abatement costs assessed but not timely paid are outstanding. Failure to pay outstanding abatement costs within thirty (30) days after posting or, in the case of a timely protest, within thirty (30) days after City Council action on the protest shall constitute grounds for revocation of the business license under Section 8-31(a) of the Code of Ordinances.

Section 2. That this Ordinance shall not be interpreted to repeal any other ordinance of the City of Gulf Shores or any provision of the law of Alabama adopted by operation of Section 1-8 of the City's Code of Ordinances.

Section 3. That the provisions of this Ordinance are severable and a determination of the invalidity of any portion of this Ordinance shall not affect the validity and enforceability of the remainder of the Ordinance.

Section 4. That this Ordinance shall become effective upon its adoption and publication as required by law.

ADOPTED this 9th day of February, 2015.



ATTEST:

Wanda Parris  
Wanda Parris, MMC, City Clerk

Robert Craft  
Robert Craft, Mayor

### CERTIFICATE

I, Wanda Parris, MMC, City Clerk of the City of Gulf Shores, Alabama, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1773 (prepared by City Clerk), which Ordinance was duly and legally adopted at a regular meeting of the City Council on February 9, 2015.

Wanda Parris  
City Clerk